

AMENDED IN ASSEMBLY MAY 23, 2002

AMENDED IN ASSEMBLY APRIL 18, 2002

AMENDED IN ASSEMBLY APRIL 3, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2141**

---

**Introduced by Assembly Member Firebaugh  
(Coauthors: Assembly Members Chu, Florez, Jackson, Pavley,  
and Strom-Martin)**

February 20, 2002

---

An act to amend Section 25358.7 of the Health and Safety Code, relating to hazardous materials.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2141, as amended, Firebaugh. Hazardous materials.

(1) The Carpenter-Presley-Tanner Hazardous Substance Account Act imposes liability for hazardous substance removal or remedial actions and requires the Department of Toxic Substances Control to adopt, by regulation, criteria for the selection and for the priority ranking of hazardous substance release sites for a response action under the act. The act requires the department and the California regional water quality control boards to provide specified information to the affected community and to develop a public participation work plan with regard to a response action at a listed site subject to that act.

This bill would define terms and additionally include, in the public participation procedures of the Carpenter-Presley-Tanner Hazardous Substance Account Act, a site that is the subject to a corrective action order for the cleanup of a release of hazardous waste or constituents into

the environment that is issued pursuant to the hazardous waste control laws, a site that is the subject of a specified enforceable agreement under that Hazardous Substance Account Act, *and* a site that is subject to a notice under the California Land Environmental Restoration and Reuse Act, ~~and a site that is subject to a cleanup or abatement order issued under the Porter-Cologne Water Quality Control Act.~~

(2) The bill would require the State Water Resources Control Board, by July 1, 2003, to submit a report to the Legislature listing each site that has been the subject of an enforcement action pursuant to the Porter-Cologne Water Quality Control Act, is contaminated with hazardous substances, and for which the state board or a regional board has issued a determination that the site is closed.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 25358.7 of the Health and Safety Code  
2 is amended to read:

3 25358.7. (a) (1) The following definitions apply to this  
4 section:

5 (A) “Site” means any of the following:

6 (i) A site listed pursuant to Section 25356.

7 (ii) An area, location, or facility that is the subject of a  
8 corrective action order issued pursuant to Section 25187 for the  
9 cleanup of a release of hazardous waste or constituents into the  
10 environment.

11 (iii) A site that is the subject of an enforceable agreement  
12 entered into pursuant to subparagraph (C) of paragraph (1) of  
13 subdivision (a) of Section 25355.5.

14 (iv) An area, location, or facility that is subject to Chapter 6.10  
15 (commencing with Section 25401).

16 ~~(v) An area, location, or facility that is subject to an order issued~~  
17 ~~pursuant to Section 13304 of the Water Code regarding a~~  
18 ~~hazardous substance, as defined in subdivision (p) of Section~~  
19 ~~13050 of the Water Code.~~

20 (B) “Action” means a response action, a corrective action  
21 order issued pursuant to Section 25187, *or* a notice issued pursuant  
22 ~~to Section 25401.5, or an enforcement action taken pursuant to~~

~~Chapter 5 (commencing with Section 13300) of Division 7 of the Water Code, to Section 25401.5.~~

(C) “Person living in close proximity” includes, but is not limited to, any public water system or community water system, as defined in Section 116275, whose source of drinking water may be contaminated by a release that is subject to an action governed by this section.

(2) The department or the regional board, as appropriate, shall take the actions specified in this section to provide an opportunity for meaningful public participation in actions undertaken for a site.

(b) The department, or the regional board, as appropriate, shall inform the public, and in particular, persons living in close proximity to a site of the existence of the site and the department’s or regional board’s intention to conduct an action at the site, and shall conduct a baseline community survey to determine the level of public interest and desire for involvement in the department’s or regional board’s activities, and to solicit concerns and information regarding the site from the affected community. Based on the results of the baseline survey, the department or regional board shall develop a public participation plan that shall establish appropriate communication and outreach measures commensurate with the level of interest expressed by survey respondents. The public participation plan shall be updated as necessary to reflect any significant changes in the degree of public interest as the site investigation and cleanup process moves toward completion.

(c) The department or regional board shall provide any person affected by an action undertaken for any site with the opportunity to participate in the department’s or regional board’s decisionmaking process regarding that action by taking all of the following actions:

(1) Provide access to information which the department or regional board is required to release pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), relating to the action, except for the following:

(A) Trade secrets, as defined in subdivision (a) of Section 25358.2.

1 (B) Business financial data and information, as specified in  
2 subdivision (c) of Section 25358.6.

3 (C) Information that the department or regional board is  
4 prohibited from releasing pursuant to any state or federal law.

5 (2) Provide factsheets, based on the expressed level of public  
6 interest, regarding plans to conduct the major elements of the site  
7 investigation and response actions. The factsheets shall present the  
8 relevant information in nontechnical language and shall be  
9 detailed enough to provide interested persons with a good  
10 understanding of the planned activities. The factsheets shall be  
11 made available in languages other than English if appropriate.

12 (3) Provide notification, upon request, of any public meetings  
13 held by the department or regional board concerning the action.

14 (4) Provide the opportunity to attend and to participate at those  
15 public meetings.

16 (5) Based on the results of the baseline community survey,  
17 provide opportunities for public involvement at key stages of the  
18 response action process, including the health risk assessment, the  
19 preliminary assessment, the site inspection, the remedial  
20 investigation, and the feasibility study stages of the process. If the  
21 department or regional board determines that public meetings or  
22 other opportunities for public comment are not appropriate at any  
23 of the stages listed in this section, the department or regional board  
24 shall provide notice of that decision to the affected community.

25 (d) The department or regional board shall develop and make  
26 available to the public a schedule of activities for each site for  
27 which action is expected to be taken by the department or regional  
28 board and shall make available to the public any plan provided to  
29 the department or regional board by any responsible party, unless  
30 the department is prohibited from releasing the information  
31 pursuant to any state or federal law.

32 (e) In making decisions regarding the methods to be used for  
33 an action, the department or regional board shall incorporate or  
34 respond in writing to the advice of persons affected by the action.

35 (f) This section does not apply to emergency actions taken  
36 pursuant to Section 25354.

37 (g) With regard to a site for which a notice is issued pursuant  
38 to Section 25401.5, the requirements of this section are in addition  
39 to the community participation requirements of Section 25401.8.

1 SEC. 2. On or before July 1, 2003, the State Water Resources  
2 Control Board shall submit a report to the Legislature listing each  
3 site that has been the subject of an enforcement action pursuant to  
4 Chapter 5 (commencing with Section 13300) of Division 7 of the  
5 Water Code, that has soil or groundwater contamination from a  
6 hazardous substance, as defined in subdivision (p) of Section  
7 13050 of the Water Code and for which the State Water Resources  
8 Control Board or a California regional water quality control board  
9 has issued a determination that the site is closed. The report shall  
10 include information as to whether each site is being monitored.

